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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
JAMES NELSEN)
Defendant.)

)

No. CR 09-01168 RMW - 1
[PROPOSED] ORDER FOR
HOSPITALIZATION OF DEFENDANT

After a hearing on April 9, 2012, the Court found by a preponderance of the evidence that the Defendant, James Nelsen, is presently suffering from a mental disease or defect rendering him mentally incompetent to stand trial. Accordingly,

IT IS ORDERED THAT: Pursuant to 18 U.S.C. § 4241(d), Defendant Nelsen is committed to the custody of the Attorney General.

IT IS FURTHER ORDERED THAT: Pursuant to 18 U.S.C. § 4241(d), the Attorney General hospitalize Defendant for treatment in a suitable facility for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is such a substantial probability that in the foreseeable future Defendant will attain the capacity to permit the proceedings to go forward. When determining an appropriate facility, this Court requests that the Attorney General consider its proximity to the Defendant's current placement in San Jose, California.

IT IS FURTHER ORDERED THAT: By the end of the term of treatment, which is not to exceed four months, the director of the facility where the Defendant is hospitalized shall prepare

1 a report to the Court, with copies to the parties, concerning the mental condition of the
2 Defendant and the prognosis for the Defendant's restoration to competency, as well as any
3 recommendations concerning what steps would assist in restoring the Defendant to competency.

4 IT IS FURTHER ORDERED THAT: Pursuant to 18 U.S.C § 4241(d), if the director of
5 the facility where the Defendant is hospitalized believes that additional time is required to
6 evaluate and treat the Defendant, the director may make application to the Court for an
7 additional reasonable period of time to treat the Defendant until the Defendant's mental
8 condition is so improved that trial may proceed. In such application, the director must set forth
9 reasons why there is a substantial probability that within such additional period of time
10 Defendant will attain capacity to permit the proceedings to go forward.

11 IT IS FURTHER ORDERED THAT: Pursuant to 18 U.S.C. § 4241(e), when the director
12 of the facility, in which the Defendant is hospitalized, determines that Defendant has recovered
13 from his mental disease or defect to such an extent that he is no longer in need of custody for
14 care or treatment in such a facility, the director shall promptly file a certificate to that effect with
15 the clerk of this Court.

16 FINALLY, IT IS FURTHER ORDERED THAT: Pursuant to 18 U.S.C. § 4241(e), the
17 clerk of this Court send a copy of the certificate to Defendant's counsel and the attorney for the
18 government.

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20 IT IS SO ORDERED.
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22 DATED: 4/9/2012


23 RONALD M. WHYTE
24 UNITED STATES DISTRICT JUDGE
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